IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 150 (SS) of 2002
(Old No. 29167 of 1994)

Ghanna Nand Khanduri,
S/o Sri Maheshwara Nand Khanduri,
R/o 14 Bigha, Kailash Gate,
Rishikesh,
District – Dehradun. **……..Petitioner.**

Versus

1. Managing Director / Company Secretary, Garhwal Mandal Vikas Nigam Limited, 74/1, Rajpur Road, Dehradun.
2. General Manager (Tourism), Garhwal Mandal Vikas Nigam Limited, 74/1, Rajpur Road, Dehradun.

……..Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri Rajendra Dobhal, learned counsel for the petitioner and Sri Shobhit Saharia, holding brief of Sri U.K. Uniyal, learned counsel for respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:

1. *issue a writ order or direction in the nature of Mandamus directing the respondents to pay Rs. 19017/- (litigation expenses of case no. 28 of 1986 and Rs. 6766.59/- (litigation expenses of criminal case no. 66/2 of 1993) and Rs. 16029.10 (arrear of revised salary of the petitioner since January, 1986) along with 18% interest on the said amount.*
2. *issue a writ order or direction in the nature of Mandamus directing the respondents to adjust Rs. 5240/- deposited by the petitioner against the amount of advance payment outstanding against the petitioner*

in the office of record of Transport of Garhwal Mandal Vikas Nigam Ltd., Rishikesh, Dehradun.

3. *issue a writ order or direction in the nature of Mandamus directing the respondents to consider the petitioner for time bound promotion in the department.*
4. *issue any other writ, order or direction in the nature of which this Hon'ble court may deem fit and proper in the circumstances of the case.*
5. *award the cost of the petition to the petitioner.*

The case of the petitioner is that petitioner was appointed as Driver in Garhwal Mandal Vikas Nigam on 24.05.1976. On 29.05.1982, An accident took place, when the petitioner was driving the bus of Garhwal Mandal Vikas Nigam which is numbered as USQ 518 which collided with UPSRTC bus no. URM 2336 and case under section 279 and 427 IPC was registered against the petitioner.

Petitioner was acquitted by the court in the case, which was numbered as case no. 28 of 1986. The court has recorded a finding that accident was not taken place due to negligence of the petitioner on 29.05.1982 but it was happened due to negligence of driver of UPSRTC.

Again on 15.11.1991, when the petitioner was driving the bus no. UGY 8849 belonging to Garhwal Mandal Vikas Nigam an accident took place. An FIR was lodged and criminal case no. 66/2/1993 under section 279, 337 and 338 IPC was registered against the petitioner.

In the aforesaid case too, petitioner was acquitted by the CJM, Sirmaur, District – Nahan. While acquitting the petitioner, the Magistrate has categorically recorded a

finding that accident took place due to mechanical defect of the bus which was being driven by the petitioner and the petitioner was not at fault.

Learned counsel for the petitioner has submitted that since the petitioner contested both the cases at his own expenses, he made representation on 02.06.1994 to respondent for refund of the amount, which he had spent on the litigation.

Departmental proceedings were also initiated against the petitioner for the aforesaid accidents, however, in the departmental proceedings petitioner was exonerated of the charges by the respondents vide order dated 14.12.1993 and petitioner was reinstated in service with his full pay and other benefits.

Learned counsel for the petitioner has submitted that in spite of several representations expenses of litigation amounting to Rs. 6,766.59 (for criminal case no. 66/2 of 1993) and Rs. 19,017(for case no. 28 of 1986) has not been paid by the respondents. Petitioner has also made representation for payment of arrear of revised salary amounting to Rs. 16,029.10 but the same has not been paid by the respondents.

Petitioner has filed copy of letter dated 12.05.1990 written by Transport Manager addressed to the Company Secretary, Garhwal Mandal Vikas Nigam wherein he has stated that policy may be framed for making payment of litigation expenses where the bus of corporation is involved in an accident and driver of bus is acquitted by the court on the ground that accident took place because of fault of another vehicle or because of mechanical defect of bus.

During the course of argument, learned counsel for the petitioner has confined his prayer that respondents be directed to take decision on the aforesaid letter dated 12.05.1990 and in case, Company Secretary, Garhwal Mandal Vikas Nigam comes to the conclusion that in such cases litigation expenses incurred by the drivers should be given to him in case, driver is not found guilty the petitioner may also be paid the amount of litigation and further to direct the respondents to pay arrears of revised pay scale.

In view of the above, I direct the petitioner to make fresh representation before respondent no. 1 raising all of his grievances within a period of three weeks from today and respondent no. 1 is directed to take decision on the representation of the petitioner within a period of three months from the date of production of certified copy of this order along with representation, if any.

With this direction, writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J)

March 6, 2007
SKSharma